

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DALE HAWKINS,

Plaintiff,

No. CIV S-10-1544 DAD P

vs.

A. HEDGPETH, et al.,

Defendants.

ORDER

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Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983,<sup>1</sup> together with a request to proceed in forma pauperis. In light of the 1996 amendments to 28 U.S.C. § 1915, this court will not rule on plaintiff's request to proceed in forma pauperis.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

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<sup>1</sup>Although plaintiff filed his claim on the form for a writ of habeas corpus petition, the court is construing this as a civil rights action brought pursuant to 42 U.S.C. § 1983.

1 In this case, all of the named defendants are located, and plaintiff's claim arose, in  
2 Monterey County, which is located within the Northern District of California. Therefore,  
3 plaintiff's complaint should have been filed in the United States District Court for the Northern  
4 District of California. In the interest of justice, a federal court may transfer a complaint filed in  
5 the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d  
6 918, 932 (D.C. Cir. 1974).

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. This court has not ruled on plaintiff's request to proceed in forma pauperis; and  
9 2. This matter is transferred to the United States District Court for the Northern  
10 District of California.

11 DATED: June 25, 2010.

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DALE A. DROZD  
15 UNITED STATES MAGISTRATE JUDGE

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